

Graff

The Newberry Library

The Everett D. Graff Collection  
of Western Americana

4335

QUARTERS, DEPT. OF NEW MEXICO,  
FORT CRAIG, N. M. March 13th 1862.

court martial which convened at Fort Craig, N. M.  
to Special Orders No. 38, current series from the  
which Lieut. Colonel J. Francisco Chaves, 1st N. M.

Vols. is President, were tried:

1st. Sergeant Rafael Rodriguez, 2d N. M. Vols.

Charge 1st.—Disobedience of orders.

Charge 2d.—Conduct to the prejudice of good order and military discipline.

Charge 3d.—Mutiny.

Charge 4th.—Disobedience of orders.

Plea.—To 1st charge and specification; not guilty.

To 2d charge and specification; not guilty.

To 3d charge and specification; not guilty.

To 4th charge and specification; not guilty.

#### *Finding.*

The Court after mature deliberation finds the prisoner as follows:

Of the 1st charge and specification; guilty.

Of the 2d charge and specification; guilty.

Of the specification, 3d charge; guilty, except the words "and did concert with other non-commissioned officers."

Of the 3d charge; guilty.

Of the 4th charge and specification; guilty.

and the court does therefore sentence him, Sergeant Rafael Rodriguez of the 2d Regiment of N. M. Volunteers "to be shot to death by a detachment of his regiment, at such time and place as the Department Commander directs."

The proceedings, findings and sentence of the Court in the foregoing case are approved; but the sentence requires for legal effect, the concurrence of two thirds of the Court but this failure cannot be allowed to defeat the ends of justice, or permit the criminal to escape justly merited punishment. The prisoner will be placed in double irons; and will be sent to the penitentiary of the District of Columbia, or such other prison as may be appointed by the President of the United States, where he will be confined for the period of ten years, or until his case is otherwise disposed of by proper authority.

2d. Sergeant Juan Francisco Montolla, 2d N. M. Vols.

Charge 1st.—Mutiny.

Charge 2d.—Disobedience of orders.

Plea.—To the 1st charge and specification; not guilty.

To the 2d charge and specification; not guilty.

### *Finding.*

The court after mature deliberation finds as follows:

Of the specification to the 1st charge, guilty, except the words "did concert with other non-commissioned officers of the said regiment." Of the 1st charge, guilty, and of the 2d charge and specification, guilty; and the court does therefore sentence him Sergeant Juan Francisco Montolla of the 2d N. M. Vols. "to be shot to death by a detachment of his regiment, at such time and place as the Department Commander directs."

The proceedings, finding and sentence of the court, in the foregoing case are approved; but the sentence requires for legal effect the concurrence of two thirds of the court; but this failure cannot be allowed to defeat the ends of justice, or permit the criminal to escape justly merited punishment. The prisoner will be placed in double irons and sent to the penitentiary of the District of Columbia or such other prison as may be appointed by the President of the United States, where he will be confined for the period of ten years, or until his case is otherwise disposed of by proper authority.

3d. Corporal Elijo Gonzales, 2d N. M. Vols.

Charge 1st.—Mutiny.

Charge 2d.—Disobedience of orders.

Plea.—To the 1st charge and specification; not guilty.

To the 2d charge and specification; not guilty.

### *Finding.*

The court after mature deliberation finds the prisoner as follows:

Of the specification to the 1st charge, guilty, except the words "concert with other non commissioned officers of the said regiment."

Of the 1st charge, guilty; and of the 2d charge and specification, guilty." and the court does therefore sentence him Corporal Elijo Gonzales 2d Regt. N. M. Vols. "to be shot to death by a detachment of his Regiment at such time and place as the Department Commander directs."

The proceedings, findings and sentence of the court, in the foregoing case are approved; but the sentence requires for legal effect the concurrence of two thirds of the court; but the failure cannot be allowed to defeat the ends of justice, or permit the criminal to escape justly merited punishment. The prisoner will be placed in double irons, and sent to the Penitentiary of the District of Columbia or such other prison as may be appointed by the President of the United State, where he will be confined for the period of ten years, or until his case is otherwise disposed of by proper authority.

4th. Sergeant Salomon Zumeult, Co. 'E' 1st N. M. Vols.

Charge.—Conduct to the prejudice of good order and military discipline.  
Plea.—Not guilty.

*Finding.*

The court after mature deliberation confirms the plea of the prisoner and does therefore acquit him.

The proceedings and findings of the court in the foregoing case are approved, and Sergeant Salomon Zumoult, of Co. 'E,' 1st N. M. Vols., is released from arrest.

5th. Private Concepcion Rodriguez, Co. 'A,' 2d N. M. Vols.

Charge 1st. Conduct to the prejudice of good order and military discipline.

Charge 2d.—Violation of the 9th Article of War.

Plea.—To 1st charge and specification; guilty.

To 2d charge and specification; guilty.

*Finding.*

The court after mature deliberation, confirms the plea of the prisoner, and does therefore sentence him, private Concepcion Rodriguez, Co. 'A,' 2d N. M. Vols., "to be shot to death at such time and place as the Department Commander directs.

The proceedings, findings, and sentence of the court in the foregoing case are approved; but the sentence requires for legal effect the concurrence of two thirds of the court; but this failure cannot be allowed to defeat the ends of justice, or permit the criminal to escape justly merited punishment. The prisoner will be placed in double irons, and sent to the penitentiary of the District of Columbia, or such other prison as may be appointed by the President of the United States, where he will be confined for the period of ten years, or until his case is otherwise disposed of by proper authority.

6th. Private Antonio Lobato, 2d N. M. Vols.

Charge 1st.—Drunkenness on duty.

Charge 2d—Cruel and inhuman conduct to the prejudice of good order and military discipline.

Plea.—To the 1st charge and specification; not guilty.

To the 2d charge and specification; not guilty.

*Finding.*

The court after mature deliberation finds the prisoner as follows:—

Of the specification to and of the 1st charge; guilty.

Of the specification, 2d charge, guilty, except the words "whereby the mule being unable to eat died," and of the 2d charge guilty, and does therefore

sentence him private Antonio Lobato Co. 'A,' 2d N. M. Vols. "to forfeit all pay and allowances that are, or may become due him, except the just dues of the laundress and sutler and to be confined at hard labor under charge of the guard for one year, wearing a 24 pound ball attached to his left leg, by a chain six feet long, and at the expiration of that term to be drummed out of service.

The proceedings, findings and sentence of the court in the foregoing case are approved and the sentence will be duly executed.

7th. Private Jesus Jaramillo, Co. 'A,' 2d N. M. Vols.

Charge 1st.—Conduct to the prejudice of good order and military discipline.

Charge 2d.—Violation of the 9th Article of War:

Plea.—To 1st charge and specification; not guilty.

To 2d charge and specification; not guilty.

### *Finding.*

The court after mature deliberation finds the prisoner as follows:

Of the specification to and of the 1st charge; guilty.

Of the specification to and of the 2d charge, guilty, except the words, "did strike and tear his shirt," and of the 2d charge guilty, and does therefore sentence him, private Jesus Jaramillo Co. 'A,' 2d N. M. Vols. "to be shot to death by a detachment of his regiment, at such time and place as the Department Commander directs.

The proceedings, findings and sentence of the court in the foregoing case are approved but the sentence requires for legal effect the concurrence of two thirds of the court, but this failure cannot be allowed to defeat the ends of justice, or permit the criminal to escape justly merited punishment. The prisoner will be placed in double irons, and sent to the penitentiary of the District of Columbia, or such other prison as may be appointed by the President of the United States, where he will be confined for the period of ten years, or until his case is otherwise disposed of by proper authority.

8th. Private José Chavez, Co. 'F,' 2d N. M. Vols.

Charge.—Conduct to the prejudice of good order and military discipline.

Plea.—Not guilty.

### *Finding.*

The court after mature deliberation finds the prisoner guilty as charged and does therefore sentence him, private José Chavez of Co. 'F,' 2d N. M. Vols. "to forfeit all pay and allowances that are or may become due him, except the just dues of the laundress and sutler, to be confined at hard labor under charge of the guard, for one year, wearing a twenty four pound ball attached to his left leg by a chain six feet long, and at the expiration of this term to be drummed out of service."

The proceedings, findings and sentence of the court in the foregoing case are approved and the sentence awarded private Jose Chavez Co. 'F,' 21 N. M. Vols. will be duly executed.

9th. First Lieut. Tomas Salazar, 4th N. M. Vols.

Charge 1st!—Conduct unbecoming an officer and a gentleman.

Charge 2d—Conduct prejudicial to good order and military discipline.

Plea.—To 1st charge and specification; not guilty.

To 2d charge and specification; not guilty.

### *Finding.*

The court after mature deliberation finds the prisoner, First Lieutenant Thomas Salazar, 4th Regiment N. M. Vols. as follows:

Of the specification to, and of the 1st charge; not guilty.

Of the specification to the 2d charge guilty, except the words, "for the purpose," and of the 2d charge guilty, and does therefore sentence him 1st Lieutenant Thomas Salazar, 4th N. M. Vols., "to be reprimanded in orders by the Department Commander."

The proceedings, findings and sentence of the court in the foregoing case are approved. The accused has reason to congratulate himself upon the leniency of the court, and the Colonel Commanding trusts that the condemnation of his conduct pronounced by the court will be a sufficient admonition to abstain from conduct so prejudicial to the interests of the service and derogatory to the character of an officer. Lieutenant Salazar will be released from arrest and resume his duties with the company.

II. . . . The general court martial of which Lieut. Colonel J. Francisco Chavez, 1st N. M. Vols. is President is dissolved.

III. . . . Before a military commission which convened at Fort Craig, N. M., on the 7th of January 1862 in compliance with Special Orders No. 5, current series from these Head Quarters, and of which Capt. P. W. Plympton, 7th Infantry is President, were tried:

1st. John Finnerty, Co. 'E,' 3d Cavalry.

Charge.—Murder.

Plea.—Not guilty.

### *Finding.*

The commission after mature deliberation finds the prisoner guilty of the specification (save the words "did break into the house of Henry Knox a soldier of Capt. Ildesonso Huy's Company 'I,' N. M. Vols.") and guilty of the charge; and does therefore sentence him, private John Finnerty Co. 'E,' 3d Cavalry "to be hung by the neck until dead (two thirds of the commission concurring in the sentence, at such time and place as the Department Commander may direct.

The evidence in the foregoing case is not sufficient in my judgement to convict the prisoner of the crime of legal murder. There are discrepancies in the testimony of the principal witness, and in the dying declaration of Knox; which involve the whole matter in obscurity and doubt. I give the prisoner the benefit of that doubt, and do not confirm the sentence of the commission. There is no doubt of his complicity in the manslaughter that was committed, and he will be dishonorably discharged from the service of the United States, and retained in confinement, in irons until the termination of the present war, or until his case is otherwise disposed of by proper authority.

ED. R. S. CANBY,

Col. 19th Infantry, Commanding Department.

2d. Private Patrick Finneran, Co. 'E,' 3d cavalry.

Charge.—Murder.

Plea.—Not guilty.

*Finding.*

The commission after mature deliberation finds the prisoner not guilty as charged, and does therefore acquit him.

The proceedings and findings of the commission in the foregoing case are approved and the prisoner will be released from confinement.

3d. Private Manuel Gonzales, Capt. Valencia's Co. N. M. Vols.

Charge.—Conduct to the prejudice of good order and military discipline.

Plea.—Not guilty.

*Finding.*

The commission after mature deliberation finds the prisoner not guilty as charged, and does therefore acquit him.

The proceedings and findings of the commission in the foregoing case are approved and the prisoner will be released from confinement.

IV....The military commission of which Capt. P. W. L. Plympton, 7th infantry is President is dissolved.

By order of Colonel E. R. S. CANBY.

WM. J. L. NICODEMUS,

Capt. 12th Infantry

A. A. A. General.

(Official.)

GURDEN CHAPIN,

Captain 7th Infantry,

A. A. A. General.

